

August 21, 1998

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

850 Union Bank of California Building  
900 Fourth Avenue  
Seattle, Washington 98164  
Telephone (206) 296-4660  
Facsimile (206) 296-1654

**REPORT AND DECISION**

**SUBJECT:** Department of Development and Environmental Services File No. **L97P0049**

**LAKEPOINTE**  
Preliminary Plat Application

**Location:** Generally between Southwest 44<sup>th</sup> Way, 164<sup>th</sup> Way Southeast, and Southeast 45<sup>th</sup> Street,  
if extended

**Applicant:** Bill Thimgan, Sinclair-Thimgan Homes, 10900 NE 8<sup>th</sup> Street #105, Bellevue, WA 98004

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

**PRELIMINARY MATTERS:**

Application submitted:	November 18, 1997
Notice of complete application:	December 16, 1997

**EXAMINER PROCEEDINGS:**

Hearing Opened:	August 13, 1998
Hearing Closed:	August 13, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

## ISSUES ADDRESSED:

- Drainage
- Water quality

FINDINGS, CONCLUSIONS, AND DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

## FINDINGS:

1. **General Information.**

Owner/Developer:	Sinclair-Thimgan Homes, Bill Thimgan 10900 NE 8 <sup>th</sup> Street #105, Bellevue, WA 98004
Engineer:	Pinnacle Engineering, Inc., Lance Gyotoku 11100 NE 8 <sup>th</sup> Street #355, Bellevue, WA 98004
Location:	Generally between SW 44 <sup>th</sup> Way, 164 <sup>th</sup> Way SE, and SE 45 <sup>th</sup> Street (if extended)
STR:	13-24-05
Zoning:	R-6
Acreage:	3.37
Number of Lots:	15
Density:	4.5 dwelling units per acre
Typical Lot Size:	Ranges from approximately 6,200 to 11,200 square feet
Proposed Use:	Detached single family residences
Sewage Disposal:	City of Bellevue
Water Supply:	City of Bellevue
Fire District:	#10
School District:	Issaquah
Complete Application Date:	December 16, 1997

2. **Proposal.** Sinclair-Thimgan Homes, represented by Lance Gyotoku, P.E., of Pinnacle Engineering, Inc. (together and separately, hereinafter referred to as the Applicant) propose to subdivide a 3.37-acre parcel in the Newcastle Community Planning area (zoned R-6) into 15 single-family residential building lots. The proposed density is 4.5 dwelling units per acre, with lot sizes ranging from approximately 6,200 square feet to 11,200 square feet. The proposed subdivision is illustrated by the preliminary plat drawing entered as exhibit no. 7 in this hearing record, which is reduced and provided as attachment 1 to the Department of Development and Environmental Services (hereinafter, the Department or DDES) preliminary report to the Hearing Examiner dated August 13, 1998 (exhibit no. 2). The existing house and outbuildings shown on that preliminary plat drawing will be demolished and removed.
3. **SEPA.** An environmental impact statement is not required. However, on June 19, 1998 the Department determined that the project would require a mitigated determination of nonsignificance (MDNS). That is, the Department determined that, based upon its review of relevant environmental documents, the proposed development would not cause probable significant adverse

impacts on the environment PROVIDED that certain measures relating to drainage will be implemented. Those SEPA-based conditions are contained in the MDNS entered in this hearing record as exhibit no. 5, and are repeated on pages 2 and 8 of the Department's preliminary report to the Hearing Examiner (exhibit no. 2). The MDNS language is repeated in condition no. 10 on page 6 and 7 of this report.:

No person, agency or tribe appealed this MDNS.

4. **Department's Recommendation.** The Department recommends granting preliminary approval plat of Lakepointe, subject to the above described MDNS and the 15 conditions of final plat approval stated on pages 6 through 10 of the Department's preliminary report (exhibit no. 2). After having heard all testimony and considered all evidence presented in the public hearing, the Department made no change in its recommendation.
5. **Applicant's Position.** The Applicant accepts the Department's recommendation as described in finding no. 4, above.
6. **Public Participation.** No person, agency or tribe appeared. No adverse comment has been received from any person.
7. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated August 13, 1998 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

#### CONCLUSIONS:

1. If approved subject to the conditions set forth below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Newcastle Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions set forth below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval set forth below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

#### DECISION:

The preliminary plat of Lakepointe, DDES application file no. L97P0049, is GRANTED PRELIMINARY APPROVAL; SUBJECT to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density (and minimum density) of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat that do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE  
AREA AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed. No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

5. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Prior to engineering plan approval, the applicant shall provide notice on title as outlined in KCC 21A.24.170. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to commencing construction activities on the site. Conditions 12 addresses site-specific requirements for sensitive areas within this plat. All

other applicable requirements for sensitive areas shall also be addressed by the applicant.

6. The applicant must obtain final approval from the King County Health Department.
7. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended.
8. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. If all lots are 35,000 square feet in size or more, or if the subdivision is outside an Urban Growth Area and is developed at a density no greater than one residential building lot per five (5) acres, or a cluster development outside an Urban Growth Area with lots under 35,000 square feet in size and offsetting permanent open space and is developed at a density no greater than one residential building lot per five (5) acres, the subdivision is exempt per KCC 17.08.030.
9. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
  - A. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
  - B. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - C. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
10. The following conditions specifically address drainage issues for this particular plat:
  - A. Core Requirement No. 3: Runoff Control.

SEPA mitigation conditions for this project shall require compliance with the stream protection standard and phosphorus control. The size of the proposed stormwater

facilities tracts may have to increase to accommodate the required detention storage volumes and biofiltration facilities. The stormwater facilities shall be located in tracts dedicated to King County.

As specified in section 4.5 of the SWM Manual, roof drain storm water shall be infiltrated or dispersed within the lot area if the soil conditions are favorable.

Infiltration of storm water for both lot areas and roadway improvements should be provided if determined to be feasible. A geotechnical report shall be provided to evaluate soil conditions, seasonal depth to groundwater, and other design requirements as outlined in the SWM Manual.

- (1) The detention facility shall be designed to comply with either of the following two standards:
  - a. The stream protection standard for peak-rate control using Santa Barbara Urban Hydrograph (SBUH) procedures as provided in the 1990 King County Surface Water Design Manual (SWDM). The criteria shall require the facility be designed to release the 2-year developed storm at 50% of the 2-year pre-developed release rate, release the 10-year developed storm at the 2-year pre-developed release rate, and release the 100-year developed storm at the 10-year pre-developed release rate. A 30% volumetric safety factor shall be added to the detention pond with this design.
  - b. Level 2 control standard using King County Runoff Time Series (KCRTS) methodology. The criteria require that flow durations under developed conditions not exceed the pre-developed discharge rates from 50% of the 2-year peak flow up to the full 50-year peak flow. No volumetric safety factor is required when using Level 2 KCRTS design methods.
- (2) Runoff from impervious surfaces subject to vehicle use or storage and/or transfer of chemicals, petroleum products or wastes must be treated to remove 50 percent of the annual average total phosphorus concentration before discharge to Lake Sammamish or its tributaries (either natural or engineered). This goal may be met by treating the water quality flow (defined below) with one of the following three on-site treatment options. The design of the facilities shall be approved by King County Water and Land Resource Division (WLRD). Other options that provide an equivalent level of pollutant removal are also acceptable, but must be approved by WLRD.

Option 1: A large wetpond having a dead storage volume of at least 4.5 times the runoff from the mean

annual storm. The mean annual storm is determined by dividing the annual rainfall (in inches) by the number of storms in a typical year. In the Lake Sammamish area, the mean annual storm ranges from about 0.47 to 0.56 inches.

Option 2: A large sand filter treating 95% of the annual average runoff volume as computed by the KCRTS time series. If a detention facility does not precede the sand filter, a presettling pond of vault must be provided prior to the sand filter. The presettling pond must be sized to hold a volume of 0.75 times the runoff from the mean annual storm.

Option 3: A two-facility treatment train, with the first facility sized to treat the water quality flow (see below), and the second facility a sand filter sized to treat the flow from the first facility, or 90 percent of the annual average runoff volume as computed by the KCRTS time series.

The water quality flow is defined by one of the following:

- the flow generated by 64 percent of the 2-year 24-hour precipitation (SBUH model),
- the flow generated by 60 percent of the developed 2-year peak flow rate (KCRTS model), or
- the flow associated with 95 percent of the annual average runoff volume in the KCRTS time series (typically restricted to sand filter sizing).

This condition is in lieu of the biofiltration required under Core Requirement #3 in the King County Surface Water Design Manual (King County Comprehensive Plan Policies NE-302, NE-310 and NE-313).

**B. Special Requirement No. 9: 100-Year Floodplain.**

A Class III stream crosses the site at the southwest corner of the property. A floodplain analysis shall therefore be performed and provided to DDES for review and approval along with the final engineering plans. The 100-year floodplain boundaries shall be shown on the final engineering plans and recorded plat.

11. The following road improvements are required with this subdivision, to be constructed according to 1993 King County Road Standards:

- A. During preliminary review the applicant submitted a road variance application (File No. L98V0027), regarding length of cul-de-sac (CDS) and angle of

intersection with the existing easement road (within Tract B) located at SE 45<sup>th</sup> Street. The variance received conditional approval on June 29<sup>th</sup>, 1998. The final engineering plans shall comply with the variance conditions.

- B. The on-site road shall be improved as a public urban subaccess.
  - C. The full length of the property frontage along SW 44<sup>th</sup> Way/164<sup>th</sup> Way SE shall be improved with a 5-foot sidewalk (KCRS Section 103 B and 3.02 A.1, urban collector arterial).
  - D. The off-site portion of the improvement along SE 45<sup>th</sup> Street (off-site road leading to the property) shall be improved to a public urban subaccess standard.
  - E. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
  - F. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
  - G. Designs for any proposed retaining walls shall be subject to the review and approval of the DDES geologist.
12. The following condition specifically addresses sensitive areas issues for this plat:
- The Class III stream at the southwestern corner of the property is required to be protected by a 25-foot buffer from the ordinary high water mark of the stream. A 15-foot building setback line is required from the buffer edge.
- To address impacts to the stream and/or buffer area from the road crossing, a Stream Buffer Mitigation Plan will be required for review prior to engineering plan approval, with financial guarantees and monitoring as required by the Sensitive Areas Ordinance and DDES. Mitigation measures may include removal of invasive non-native weedy species and replacement with native species.
13. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
14. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid;" if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
15. Suitable recreation space shall be provided consistent with the requirements of



KCC 21A.14.180. The applicant will provide at least 5,850 square feet of recreation space within Tract A. Tract A, which will also contain an underground storm water detention vault, shall be dedicated to King County. A homeowner's association shall be established to the satisfaction of DDES, and an easement shall be provided to the homeowner's association, in order to maintain the recreation facilities and associated landscaping in Tract A, and sensitive areas. A recreation and landscape plan, which shall include a tot/child play area, shall be reviewed and approved by DDES and the King County Parks Division prior to engineering plan approval.

ORDERED this 21<sup>st</sup> day of August, 1998.

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R. S. Titus, Deputy  
King County Hearing Examiner

TRANSMITTED this 21<sup>st</sup> day of August, 1998, to the parties and interested persons on the attached list.

### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before September 4, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before September 11, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE AUGUST 13, 1998 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L97P0049 – LAKEPOINTE:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Lance Gyotoku and Keri Akers/DDES.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L97P0049
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Hearing Examiner for the August 13, 1998 public hearing
- Exhibit No. 3 Application dated November 18, 1997
- Exhibit No. 4 Environmental Checklist dated November 18, 1997
- Exhibit No. 5 Mitigated Declaration of Non-Significance dated June 19, 1998
- Exhibit No. 6 Affidavit of Posting, indicating January 7, 1998 as date of posting and January 9, 1998 as date affidavit was received by DDES
- Exhibit No. 7 Plat map dated July 22, 1998
- Exhibit No. 8 Land Use Map Kroll pages 552E and 553W
- Exhibit No. 9 Assessor Maps received November 11, 1997
- Exhibit No. 10 Level 1 Drainage Analysis dated November 18, 1997
- Exhibit No. 11 Geotechnical Engineering Report dated March 3, 1998
- Exhibit No. 12 Letter from Pentec Environmental dated March 3, 1998
- Exhibit No. 13 Preliminary Utility and Grading Plan dated July 22, 1998
- Exhibit No. 14 Road Variance dated June 29, 1998